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EXAMINER

IWARERE, OLUSEYE

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/580,484
Filing Date: May 24, 2006
Appellant(s): HAMMELL, BRADLEY R.

George M. Macdonald
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 6/28/2011 appealing from the Office action mailed 10/28/2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

Parent application 10/722,231

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1-5, 13-17 and 22 - 26 are in the case and under final rejection of the Examiner.

Claims 6-12 were withdrawn from consideration by the Examiner.

Claims 6-12 and 18-21 have been canceled.

Claims 1-5, 13-17 and 21-26 are in the case and stand finally rejected under 35 U.S.C. § 103(a) as allegedly rendered obvious by U.S. Patent No. 7,212,829 B1 to Lau, et al. ("Lau '829") in view of Examiner's Official Notice.

Appellants hereby appeal the final rejection of claims 1-5, 13-17 and 21-26.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

Lau (U.S. Patent No. 7,212,829)

Examiner's Official Notice

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1 – 5, 13 – 17 and 21 – 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lau (7,212,829) in view of Examiner's Official Notice.**

As per claims 1, 13 and 25, Lau discloses a system and computer-implemented method for a user to find pinpoint status of a shipment being transported by a carder, comprising:

clicking on a shipment pinpoint symbol on a computer screen (col. 5, lines 53 – 62 discuss user selecting);

connecting automatically to an internet or private network, if a connection is not already established (col. 4, lines 37 - 50 discuss connecting to the internet);

sending automatically a shipping pinpoint inquiry to the carder via the internet or private network (col. 4, lines 55 – 67 discuss a tracking the location information of the shipment);

requesting a pinpoint location of the shipment in response to the shipping status inquiry (col. 4, lines 55 – 67 discuss a tracking the location information of the shipment); and

receiving the requested pinpoint location of the shipment to the computer screen, wherein the pinpoint location identifies a position between checkpoints at each of which shipment presence is monitored regardless of user inquiries (col. 4, lines 55 – 67 discuss a tracking the location information of the shipment).

However, Lau does not explicitly disclose then, in response to clicking on the shipment pinpoint symbol shortcut icon.

Law teaches a website and a graphical user interface with icons (fig. 6). Lau also teaches selecting a notification format and select from any of the options shown on the website in page 6. In addition the abstract states, "...interested parties can gain access to status information pertaining to the articles being shipped via a website."

The Examiner takes Official notice that it is old and well known in the art of websites to include shortcut icons and to click those icons as a way to make a selection.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include clicking on a pinpoint symbol shortcut icon, in order to select the sending format of the shipping status.

As per claims 2 and 14, Lau discloses wherein the shipment pinpoint symbol shortcut icon comprises a file, including a markup language context text including a tracking code of the shipment (fig. 6 depicts icons).

As per claims 3 and 15, Lau discloses wherein the shipment pinpoint symbol shortcut icon is provided to the computer screen in conjunction with a shipment checkpoint symbol shortcut icon (fig. 6 depict pinpoint symbols), and

wherein the shipment checkpoint symbol shortcut icon is for obtaining information as to the presence of at least one of the checkpoints (fig. 6 depicts position information).

As per claim 4, Lau further discloses comprising:

determining whether the step of providing the pinpoint shipping status information to the computer screen is performed later than a certain time after the step of sending automatically the shipping pinpoint inquiry, due to a delay (col. 15 discusses determining a delay in transport); and

compensating a user of the computer screen any such delay (col. 11, lines 52 - 62 discusses incurring costs);

As per claims 5 and 16, Lau discloses wherein the position is separate from all of the checkpoints (abstract discusses positions of the item shipped).

As per claim 17, Lau discloses further comprising:

determining that the position indicates arrival at a delivery checkpoint (col. 5, line 63 - col. 6, line 10 discusses determining arrival); and

modifying the file to remove the tracking code of the shipment (fig. 3 depicts updating the shipping information).

As per claim 21, Lau further discloses comprising:

receiving the shortcut icon file via the internet or private network (col. 2 discusses the internet).

As per claim 22, Lau discloses wherein:

the server computer sends the shortcut icon file to the user computer via the internet or private network (col. 2 discusses the internet).

As per claim 23, Lau further discloses comprising:

then, in response to clicking on the shipment pinpoint symbol shortcut icon, sending automatically a second shipping pinpoint inquiry to a second carrier via the internet or private network (fig. 1 depicts sending via the internet);

As per claim 24, Lau further discloses comprising:

a second server computer for providing to a user computer a clickable shipment pinpoint symbol shortcut icon file that triggers a shipping pinpoint inquiry to a second carrier (fig. 1 depicts a server).

As per claim 26, Lau further discloses comprising:

the server computer configured to charge the user a fee is the clickable shipment pinpoint symbol shortcut icon file is selected by the user (col. 11, lines 52 - 62 discusses incurring costs).

(10) Response to Argument

Appellant argues, (Brief, Page 10), "Initially, Appellant respectfully submits that the use of Official Notice for the first time in a Final Office Action is improper. * * * Appellants dispute the statement at least because it is not clear what is meant by websites including and clicking icons as a way to make a selection. Appellant respectfully requests a reference to support the statement. * * * Contrary to the Examiner's suggestion, it would not have been obvious to include clicking on a pinpoint symbol as described more fully below, at least because Lau '829 deals only with setting up future notifications that arrive by email, pager or facsimile. See Lau '829 at FIG. 6"

The examiner presents the reference: Lindquist et al. (U.S. Patent Publication No. 2002/0152137) in paragraph [0031] and fig. 14 as teaching the limitation of "the, in response to the clicking on the shipment pinpoint symbol shortcut icon".

Appellant argues, (Brief, Page 12), "on page 2 of the Final Office Action, the Examiner suggests that Lau '829, col. 4, lines 37-50 teach connecting to the network as claimed. However, the cited portion of the reference appears to describe only connectivity for the tracking devices and not the status requesting device."

However, fig. 1 depicts all of the systems connected to the internet 112, which is a network, therefore the Examiner respectfully disagrees.

Appellant argues, (Brief, Page 12), “Similarly, on page 3 of the Office Action, the Examiner cites to Lau '829 col. 4, lines 55-67 to purportedly teach i) sending a shipping pinpoint inquiry, ii) requesting a pinpoint location and iii) receiving the requested pinpoint location on the computer screen. However, the cited portion of the reference appears to describe only a system that pushes data from its sensors. It does not teach or suggest clicking an icon to obtain pinpoint tracking information on the screen of the computer where the icon was selected.”

However, the reference provided upon request to challenge the Examiner's Official Notice (Lindquist) teaches the clicking of an icon to obtain tracking information. Therefore the Examiner respectfully disagrees.

Appellant argues, (Brief, Page 12), “With regard to dependent claims 2 and 14, the Examiner suggests at page 4 of the Final Office Action that Lau '829 FIG. 6 depicts icons and thus teaches:

‘wherein the shipment pinpoint symbol shortcut icon comprises a file, including a markup language content text including a tracking code of the shipment.’

Initially, FIG. 6 is reproduced above and does not depict icons. Moreover, even if it did, it would not be used for initiating tracking, but rather to setup future automated notifications. Accordingly, Appellant respectfully submits that the rejection is in error.”

However, figure 6, item 606 depicts notification of tracking criteria based on position and delivery status, which is construed as “context text” therefore the Examiner disagrees.

Appellant argues (Brief, Page 13), similarly, with regard to dependent claims 3 and 15, the Examiner suggests at page 4 of the Final Office Action that Lau '829 FIG. 6 depicts icons and thus teaches:

‘wherein the shipment pinpoint symbol shortcut icon is provided to the computer screen in conjunction with a shipment checkpoint symbol shortcut icon, and wherein the shipment checkpoint symbol shortcut icon is for obtaining information as to the presence of at least one of the checkpoints.’

Initially, FIG. 6 is reproduced above and does not depict icons. Moreover, even if it did, it would not be used for initiating tracking, but rather to setup future automated notifications. Accordingly, Appellant respectfully submits that the rejection is in error.”

However, figure 6, item 606 depicts notification of tracking criteria based on position and delivery status, which is construed as “a shortcut icon for obtaining information as to the presence of at least one of the checkpoints” therefore the Examiner disagrees.

Appellant argues (Brief, Page 13), “With regard to claim 4, the Examiner states that Lau '829 at col. 11, lines 52-62 discusses costs. However, the cited portion of Lau

'829 discusses costs for the shipment, not costs for the status request. Accordingly, Appellant respectfully submits that the rejection is in error.”

However, col. 11, lines 52 – 62 discuss costs and refunding which is construed as compensating for delay, therefore the Examiner respectfully disagrees.

Appellant argues (Brief, Page 13), “Dependent claim 17 currently recites:

17. The method of claim 2, further comprising:

determining that the position indicates arrival at a delivery checkpoint; and
modifying the file to remove the tracking code of the shipment.

The Examiner suggests at pages 4-5 that FIG. 3 depicts "updating shipping information." However, FIG. 3 does not appear to teach or fairly suggest modifying tracking related information at all and not removing a tracking code. Accordingly, Appellant respectfully submits that the rejection is in error.”

However, fig. 3 depicts several control loops where position notification messages are produced and sent which is construed as modifying tracking related information and removing the tracking code of the shipment, the code being the position notification message.

Appellant argues, (Brief, Page 14), “With regard to claim 21, the Examiner suggests that Lau '829 discusses the Internet at col. 2. However, claim 21 recites:

The method of claim 2, further comprising:

receiving the shortcut icon file via the internet or private network

The cited portion of Lau '829 does not appear to describe receiving a shortcut icon file at all. Similarly, the elements of claim 22 are not met by the cited portion of Lau '829. Accordingly, Appellant respectfully submits that the rejection is in error.”

However, fig. 6 depicts shortcut icons provided over the webpage, therefore the Examiner respectfully disagrees.

Appellant argues, (Brief, Page 14),”With regard to claims 23 and 24, the cited FIG. 1 of Lau '829 does not appear to describe pinpoint shipment shortcut icons at all. Accordingly, Appellant respectfully submits that the rejection is in error.”

However, fig. 6 depicts arrows are construed as pinpoint shipment shortcut icons, therefore the Examiner respectfully disagrees.

Appellant argues, (Brief, Page 14), “With regard to claim 26, the Examiner states that Lau '829 at col. 11, lines 52-62 discusses costs. However, the cited portion of Lau '829 discusses costs for the shipment, not costs for the status request. Accordingly, Appellant respectfully submits that the rejection is in error.”

However, col. 14, lines 45 - 56 discuss the user paying to access the location information therefore the Examiner respectfully disagrees.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

Art Unit: 3687

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/OLUSEYE IWARERE/

Examiner, Art Unit 3687

/Matthew S Gart/

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